

The Evil of Changing Existing Laws in Appropriation Bills.

SPEECH

OF

HON. CHAS. P. THOMPSON,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES, THURSDAY, AUGUST 3, 1876.

The House having under consideration the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate on the bill (H. R. No. 1594) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1877—

Mr. THOMPSON said:

Mr. SPEAKER: We have now arrived at a point where it can but be profitable for us to pause and most carefully consider what is the cause of the defective workings of our system of legislation. We find that general appropriation bills which ought to have been passed more than a month ago are suspended between the two Houses of Congress, and in great danger of not being passed at all, and the operations of Government stopped for want of the necessary funds to meet the necessary expenses of the Administration, and the country also in danger of having changes in existing laws effected in a manner that is revolutionary and subversive of the rights of the people. What is the cause of this most alarming state of things? Is it in the fact that Congress is composed of two distinct and independent branches? Cannot the Government be carried on successfully with a Senate and House of Representatives? Have we to try again the experiment of a single legislative body, which history and experience have found to be a failure and so unfavorable to good government that not a State has adopted such a system of legislation or scarcely a city in the whole country has organized its council upon that basis?

I do not believe for a moment that any one is prepared to say that the framers of our Constitution made a mistake when they provided in the first article of the Constitution, and in the first section of that article, that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives," and provided also that each branch of Congress shall be equal to the other in rights, privileges, and powers except where the contrary is particularly specified. It is not necessary for my present purpose to enumerate the few particulars in which their rights, powers, and

privileges are not the same. The only material difference so far as legislation is concerned is set forth in article 1, section 7, which is:

All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

But it was not intended that they should be equally susceptible to popular influences. The House was so constituted, so organized that it would feel at once the throb of the popular heart; the Senate, so that cool and deliberate action might be insured. The Senate was designed to be the great conservative force in our system of legislation. But I am sorry to say that the popular influences at work have tended to make the two branches much alike, too equally susceptible to the momentary popular influences. Sir, under our system the popular sensation is felt too soon in our legislation. The workings of our system of legislation have developed the fact that its checks and balances are not too great for wise and necessary legislation, but are found oftentimes to be too small to prevent hasty and ill-matured legislation. I think this fact will be conceded on all sides.

Now, Mr. Speaker, if our system of legislation is right, if Congress is wisely organized with two separate independent branches and the system is to be maintained, there must be some error in the modes of legislation in the one branch or the other, or in both, which are to be remedied to secure the proper workings of the system. Let us ask ourselves earnestly and conscientiously whether we may not be somewhat responsible for the imperfect workings of this system; for if we are, then it behooves us to put ourselves right at the earliest possible moment. The way to obtain justice is to do justice. The most approved method of inducing others to do right is to do right ourselves.

For one, I am fully convinced that this House is in fault, and that further persistence in it will make it criminally in fault; that we ought at once to put ourselves right. I am not going to discuss at length at this

moment the effect of the amendment made to the one hundred and twentieth rule of this House by striking out all after the word "progress" and adding thereto, "nor shall any provisions in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject-matter of the bill, shall retrench expenditures;" an amendment that I believed most vicious in its tendencies, and against which I recorded my vote with the deepest conviction of the correctness of that vote, and observation and reflection have strongly confirmed the conviction I then entertained, that the policy of making it possible and even probable that the Committee on Appropriations would absorb many of the duties and powers of nearly all the other committees and sadly derange the whole mode of legislative proceeding in this House, and cause questions to be considered alone, or more particularly with reference to their pecuniary character, when it might be of the first importance to have them considered in other and widely different aspects than that of their immediate effect upon the Treasury of the United States.

I know that it has not been unusual for new legislation to be ingrafted on appropriation bills, for appropriation bills to contain legislation independent of "any expenditure previously authorized by law" or the "continuation of appropriations for such public works and objects as are already in progress." And I know not why this House should be held more responsible for such legislation than others, unless it has carried this wrong to a greater extent than other Houses have done. But, sir, be this as it may, the question now is not as to the expediency of that course, but it is a wholly different question. It is this question—a graver one cannot be proposed: Will this House demand and insist that legislation, which under that rule has been ingrafted upon the general appropriation bills changing existing laws, shall be re-instated and retained in those bills after they have been stricken out by the Senate, for the purpose of compelling the Senate, coercing the Senate, to adopt that new legislation or refuse to provide funds for carrying on the various departments of the Government? This is the question; and I have no doubt, for one, how this House ought to answer it. This manifest attempt at coercing a co-ordinate and equal branch of Congress is wholly without justification or excuse. Much of this new legislation under the amendment to that rule has received, I regret to say, my vote; not that I do not believe the measures to be sound and necessary, but on account of the mode in which that new legislation passed the House, namely, as amendments to appropriation bills; and it is not only my right but my duty to speak and act with reference to the use, the disposition that is to be made of that legislation.

I have said the duties, privileges, and

powers of the two Houses are equal in all matters of legislation, except that the House of Representatives has the exclusive right to originate bills for raising revenue. But, sir, this to my mind is not so much a question as to what are the relative rights of the two Houses. The real question, the important question, is, What are the rights of the people? The people have the right to have this protection; that no law shall be passed affecting their rights unless it have the concurrent approval of both Houses of Congress, expressed separately and independently of each other, without interference or coercion. A law must be the separate judgment of the two Houses as well as their combined judgment; and unless it is, it is not the will of the people constitutionally expressed. The will of the people is that the Constitution shall be obeyed. All laws must not only be enacted according to the forms of the Constitution, but in harmony with its spirit. The people are now saying to Congress in the strongest possible manner, "Pass no law that has not the full, fair, uncoerced approval and concurrence of both Houses of Congress." They are saying this through the Constitution. How can they speak more earnestly?

Legislation in this country was designed to be by Congress, and not by either House alone. If by any means the House and the Senate are put in a position where they are led to trade with each other, where one measure which is the favorite of the House and disapproved of by the Senate, and another measure which is the favorite of the Senate and disapproved of by the House, and both are passed by the two Houses for the reason that unless both are neither can be, I say most emphatically that if both measures are passed by Congress, they are in direct violation of the spirit of the Constitution. Neither ought to have been enacted by Congress, and the enacting of them is a most gross and outrageous fraud upon the people. Moreover, it is the sacred right of this House, the constitutional right of the majority and the minority of this House, that if a bill passes here, however large its majority, however necessary or important it may seem to be for the advancement of the prosperity, honor, and glory of the country—I repeat, it is the constitutional right of the majority and the minority to have the free, honest, and uncoerced judgment of the Senate upon that bill and every section of it, and if it does not meet its approval and concurrence, to have the bill defeated, so that it shall not become a law.

Mr. Speaker, I demand my constitutional right in this matter; I demand it as a member of this House; I demand it in that higher, nobler, more commanding capacity of an American citizen—I demand that this House shall not attempt to coerce the Senate to make any change in existing laws by an endeavor to retain such changes in the appropriation bills against the consent, the approval

of the Senate. I demand of the Senate that it shall not yield in the slightest degree to any influences from the House which are not wholly independent of considerations as to how much or how little may be gained for its favorite measures by adopting the measures proposed by the House. I have the right both as a member of this House and as an American citizen to have the judgment of the Senate upon the necessity, fitness, and propriety of the measures proposed by this House and each of them. If one House of Congress is to control certain legislation and another branch certain other legislation, we might as well divide the work; let the Senate have its class of subjects, and the House its, which would work a complete revolution in our system of government.

Mr. Speaker, let us suppose for a moment that a private citizen engaged in large and important transactions had come to the conclusion that he would not enter upon any new enterprise unless the enterprise should meet with and receive the unqualified approval of two carefully selected advisers, each forming his opinion independent of the other; and suppose further that these chosen and trusted advisers should make an agreement that if the one would declare his concurrence in the feasibility of the favorite project of the other, the latter would declare his concurrence in the feasibility of the favorite project of the former, when in fact there was not a mutual agreement as to the feasibility of either project, and that agreement should be carried out; would it not be said, and most truthfully and justly said, that a most gross and wicked fraud had been committed? Sir, in no case would that private citizen have the real judgment of but one of his advisers, and instead of the judgment and support of the opinion of two honest men with reference to the enterprise, he would have but the opinion of one, and that of one who has been guilty of committing a most wicked fraud upon him. It would be an equally gross fraud upon the people of this country were the Senate and the House to meet through its conference committees with the purpose on the part of each of getting through Congress as much of legislation as possible that both Houses do not approve, by each conceding to the other its favorite measures, and a report were agreed upon and presented to both Houses and ratified with a similar purpose. Such laws, although possibly passed under the letter of the Constitution, would be passed in the most direct and absolute violation of its spirit.

I have no language in which to express the surprise with which I have heard such expressions as these, "The Senate has made so much and the House has made so much." Sir, in the manner that legislation is being conducted in these appropriation bills, nothing can be made by the Senate, nothing can be made by the House; but the people may lose everything. What it is alleged that the Senate and the House have gained may be only the measure of what the people have lost. Every change in the existing laws effected by the necessity of having an appro-

priation bill passed is a change made without their consent. If done, the servants of the people have consented that laws might be made practically by one body, when they had no such power delegated to them. The people have the right to have each House of Congress to guard and protect them against any errors or mistakes that may be committed by the other.

But it may be said that there is an overpowering necessity for putting new legislation upon these appropriation bills, that in no other way can the demand for retrenchment be met and the enormous expenditures of the Government be reduced and brought within reasonable limits. Sir, whatever may be the impression upon the minds of some, there is no such necessity existing. There cannot be such a necessity. The great and overpowering necessity of the present time is a strict observance on the part of all of the Constitution of the United States—its grants and limitations. There can be no sufficient cause shown or apology made for a violation of either the letter or the spirit of that sacred instrument, which is the charter of our powers and the guardian of our liberties. The people demand no reforms except those that may be made in a constitutional manner. It is not enough that certain retrenchments seem proper and just to this House; the people do not want them adopted until they appear proper and just to the Senate, and not even then unless two-thirds of both Houses of Congress approve them or the President shall also approve them. Neither House of Congress nor the President alone can express the will of the people upon subjects of legislation.

Let us not be too anxious about this matter. This House can only speak for itself. It is only responsible for its own action, and the Senate is equally responsible for its position, and the President for his. Let us respect the rights of each as we expect each to respect ours. We have no right to do otherwise, whatever may be our convictions as to the importance of the measures we may be attempting to advance.

Am I asked what is our duty at this time in relation to the matter under consideration? I answer, without a doubt as to its correctness, unload at once all the appropriation bills now in any manner under the control of this House of every word changing existing laws which has not been approved of by the Senate; put that new legislation before the House again, so far as it is now deemed just and essential to the public welfare, through the reports of appropriate committees of the House; so modify Rule 120 that no amendment shall be in order changing existing laws in the general appropriation bills. The danger of pressing measures by tacking them to appropriations and having them carried, not by their own merit, but by the force of the bill to which they are attached, is too great to be hazarded.

In view of the experience we have had I cannot see how any member can ever again vote to put an amendment upon an appropriation changing existing laws, however de-

sirable the change sought for may appear to him. I answer further, restore at once the proper and healthy action of the various committees upon their appropriate subjects of legislation; restore to them their true position, the position they occupied before they were dwarfed to give the great power and scope which have been given by that amendment to that rule to the Appropriation Committee.

I trust I may be permitted to say generally, that it is our highest duty to most

sacredly regard both the letter and spirit of the Federal Constitution and in all our deliberations here to place public honor and justice above national wealth and power, and the public welfare far above personal or party considerations. I owe this House an apology for not stating my convictions earlier upon this question. I make that apology now. I do not know the measure of my fault, but I am certain that longer silence would have been a crime.

FOREIGN INTERCOURSE.

Mr. KASSON. Mr. Speaker, I rise mainly to place upon record certain statistical information which I think will be of use to gentlemen who may not have obtained it from the Departments and who may require it in the succeeding conference. We have two branches of our foreign service: the consular and the diplomatic. The consular service is not paid out of the ordinary funds of the Treasury. It is paid by fees collected upon foreign mercantile transactions, and should be expended for the benefit of the commerce of the country. The first statement I submit is a comparison of the appropriations for consular salaries from the year 1856 to 1875, showing also how the revenue from fees has grown with the increase of the consular service; the fees, however, in the larger ratio. In 1856 the salaries amounted to \$280,000 in round numbers, with no report of fees. The next year the salaries amounted to \$273,750 and the fees to \$110,802. From that small beginning the consular service appropriation rose in 1872 to \$477,000 as the highest figure, while the fees have increased to over \$700,000. [See table.]

This statement is important as showing that the facilities we afford to commerce by consular appointments are actually increasing the revenue to the Treasury; and the effort to abolish those consular appointments where the fees are small is like a telegraph company abolishing every office on its line that does not pay the expenses of its maintenance.

Last year we reduced the payments from the figures of 1872 \$333,000, while the fees are about \$700,000. Hence, I maintain that the destruction of the consular service proposed in this bill is a destruction *pro tanto* of the commercial interests of the country. I desire that the next committee of conference

may bear in mind that the consular service is one which merchants pay for and that they have a right to demand its vigorous support, while they also pay in part for the diplomatic service.

Comparison of amounts appropriated for consular salaries with the amounts of fees collected and returned to the Fifth Auditor of the Treasury for the fiscal years named.

Appropriations.	Salaries.	Fees returned.
August 1, 1856.....	\$280,750 00	No report.
February 7, 1857.....	273,750 00	\$110,802 89
July 5, 1858.....	273,750 00	110,896 78
March 3, 1859.....	235,000 00	99,113 23
May 26, 1860.....	268,750 00	77,590 21
February 28, 1861.....	*329,261 97
February 4, 1862.....	351,550 00	152,982 54
February 4, 1863.....	†416,354 34	254,218 34
June 20, 1864.....	†477,500 00	287,108 00
January 24, 1865.....	†450,000 00	442,477 56
July 25, 1866.....	†425,000 00	424,099 17
February 28, 1867.....	†431,500 00	435,179 73
March 30, 1868.....	†400,000 00	459,722 43
March 3, 1869.....	†400,000 00	534,670 79
July 11, 1870.....	†376,663 00	632,258 22
February 21, 1871.....	†391,200 00	706,907 95
May 22, 1872.....	†416,000 00	746,594 89
February 22, 1873.....	†409,000 00	715,202 94
June 11, 1874.....	364,500 00	697,988 49
February 18, 1875.....	333,200 00	†700,000 00

*This includes a deficiency of \$54,571.97.

† This includes loss by exchange, estimated at \$45,000 to \$48,000. The House bill proposes to reduce the appropriation for consular salaries to \$294,900.

‡ Estimated.